

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 DAVID BOOKER,

4 Plaintiff

5 v.

6 SANCHEZ, et al.,

7 Defendants

Case No.: 2:23-cv-00734-JAD-BNW

**Order Denying Motions and Extending
Time to File a Complete IFP Application**

[ECF Nos. 14, 17, 18]

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9 The federal magistrate judge in this case has given Plaintiff David Booker two chances to
10 file a fully complete application to proceed *in forma pauperis* (IFP)¹ but he has yet to do so.
11 Booker has not submitted a copy of his prison trust-fund account statement for the previous six-
12 month period.²

13 In response to the last extension of time,³ Booker filed two motions for injunctive
14 relief—one that urges me to order prison officials to give Booker his IFP documents or be held
15 criminally liable⁴ and the other that wants me to find a prison official criminally and financially
16 liable.⁵ Booker also filed another motion for preliminary injunction that may be substantively

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21 ¹ ECF Nos. 3, 16.

22 ² See ECF No. 8.

23 ³ ECF No. 16.

⁴ ECF No. 17.

⁵ ECF No. 18.

1 related to the claims in his complaint⁶; he also filed a motion to substitute a magistrate judge in a
2 different case.⁷

3 I defer a decision on the motion for injunctive relief that might be substantively related to
4 the claims in his complaint but deny several of the other motions. First, I deny the motion to
5 substitute U.S. Magistrate Judge Albregts in *Booker v. High Desert State Prison*, 2:23-cv-00469-
6 ART-DJA, because I am not a part of that case.⁸ Second, I deny the injunctive-relief motion in
7 which Booker asks me to find prison officials criminally and financially liable for damages under
8 criminal and civil law because he is not a prosecutor.⁹ Third, I deny the injunctive-relief motion
9 in which Booker seeks criminal penalties against prison officials for not sending him his inmate
10 account statement because, again, he is not a prosecutor.¹⁰ However, I grant Booker one final
11 extension of time until October 15, 2023, to file his inmate account statement or pay the full
12 \$402 filing fee.¹¹

16 ⁶ ECF No. 13.

17 ⁷ ECF No. 14.

18 ⁸ *Id.*

19 ⁹ ECF No. 18; *see United States v. Nance*, 962 F.2d 860, 864–65 (9th Cir. 1992), *as amended*
(May 18, 1992) (holding that the “ultimate decision whether to charge a defendant, and what
charges to file, . . . rests solely with state and federal prosecutors”).

20 ¹⁰ ECF No. 17; *see Nance*, 962 F.2d at 864–65.

21 ¹¹ To apply for *in forma pauperis* status, an inmate must submit all three of the following
documents to the court: (1) a completed Application to Proceed *in Forma Pauperis* for Inmate,
22 which is pages 1–3 of the court’s approved form, that is properly signed by the inmate twice on
page 3; (2) a completed Financial Certificate, which is page 4 of the court’s approved form, that
23 is properly signed by both the inmate and a prison or jail official; and (3) a copy of the inmate’s
prison or jail trust-fund account statement for the previous six-month period. *See* 28 U.S.C. §
1915(a)(1)–(2); Nev. Loc. R. Prac. LSR 1-2.

Conclusion


IT IS THEREFORE ORDERED that a decision on the motion for preliminary injunction (ECF No. 13) is deferred.

IT IS FURTHER ORDERED that the motion to substitute and motions for additional injunctive relief (**ECF Nos. 14, 17, 18**) are **DENIED**.

IT IS FURTHER ORDERED that Booker has until October 15, 2023, to submit a copy of his prison trust-fund account statement for the previous six-month period or pay the full \$402 filing fee. Booker is cautioned that this action will be subject to dismissal without prejudice if he fails to timely comply with this order. A dismissal without prejudice allows Booker to refile the case with the court, under a new case number, when Booker can file a complete IFP or pay the required filing fee.

The Clerk of the Court is directed to **SEND** Booker the approved IFP form for an inmate and instructions for the same.

Dated: August 30, 2023



U.S. District Judge